

15 SEP 2008



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In re Application of	:	
SRIVATS et al.	:	
Application No.: 10/585,389	:	DECISION
PCT No.: PCT/IN2005/000006	:	
Int. Filing Date: 06 January 2005	:	
Priority Date: 07 January 2004	:	
Attorney's Docket No.: 04-40395-US	:	
For: WHEELS OF UNITARY CONSTRUCTION	:	
AND METHOD OF MAKING SAME	:	

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT-OFFICE COMMUNICATION NOT RECEIVED," which has properly been treated as a petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on 13 June 2008.

**BACKGROUND**

On 06 January 2005, applicant filed international application PCT/IN2005/000006, which designated the United States and claimed a priority date of 07 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 July 2006.

On 06 July 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 September 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 13 June 2008, applicants filed the instant petition under 37 CFR 1.181.

### **DISCUSSION**

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

As to item (3), MPEP § 711.03(c), para. I.A. states that a "copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." The docket report provided does not appear to be a master docket for the firm but rather the docket records for the instant application.

### **CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application is abandoned as to the United States of America for failure to timely file a proper reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2007.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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Application No.: 10/585,389

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